

**No. 3622-3Lab-78/1756.**—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Usha Electronics India Private Limited, Plot No. 21-22, Sector 25, Faridabad :—

**BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD**

**Reference No. 170 of 1977**

*between*

**SHRI NETRA PAL, WRKMAN AND THE MANAGEMENT OF M/S USHA ELECTRONICS INDIA PRIVATE LIMITED, PLOT NO. 21-22, SECTOR 25, FARIDABAD**

*Present :*

Shi Netra Pal, concerned workman.

Shri K. P. Aggarwal, for the management.

**AWARD**

By order No. ID/FD/397-77/45329, dated 19th October, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Usha Electronics India Private Limited, Plot No. 21-22, Sector 26, Faridabad and its workman Shri Netra Pal, to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Netra Pal was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared. The workman has filed his claim statement, and the case was fixed for the filing of written statement by the management. At this stage, the parties settled the dispute under which the workman has received a sum Rs. 1,900 only in full and final settlement of his dispute. He stated that there are no other dispute, from the management and he gives up his claim of reinstatement and re-employment. I, therefore, give my award as follows :—

- (1) That the workman has received a sum of Rs. 1,900 only from the management.
- (2) That the termination of services of the workman concerned is justified and in order. He is not entitled to any relief.

Dated 16th March, 1978.

**NATHU RAM SHARMA,**  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

**No. 246, dated the 17th March, 1978**

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 17th March, 1978.

**NATHU RAM SHARMA,**  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

**No. 3621-3Lab-78/1758.**—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s, Prestolite of India No. 16/4, Mathura Road, Faridabad.

**BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD**

**Application No. 6 of 1976 under-section 33-A of the Industrial Disputes Act, 1977**

*between*

**Shri S. K. Taneja, workman and the management of M/s Prestolite of India Limited, 16/4, Mathura Road, Faridabad**

*Present.—*

Shri H. R. Dua, for the workman.

Shri S. L. Gupta, for the management.

## AWARD

The workman made this complaint under-section 33-A of the Industrial Disputes Act, 1947, alleging that a reference was pending related to an industrial dispute at the time the service of the complainant were dismissed. The respondent was served with notice who appeared and filed their reply. On the pleadings of the parties, the following issues were framed on 10th December, 1976 :—

- (1) whether the management has contravened the provisions of Section 33 during the pendency of proceedings before this Tribunal ?

The case was set for the evidence of the workman. The workman examined Shri Rati Ram, Member of this Tribunal who brought the file of reference No. 25 of 1975. The complainant also examined himself and stated that reference No. 25 of 1975 was pending when he was dismissed. The workman closed their case. The management examined their representative Shri S. L. Gupta who tendered in evidence a copy of the award in reference No. 25 of 1975.

I have gone through the evidence of the parties and have heard their arguments. Although Award in reference No. 25 of 1975 was given on 8th September, 1976 but the learned Presiding Officer of the Industrial Tribunal in that award held that a settlement had taken place between the management and the representative on 11th November, 1974 and the learned Presiding Officer in that award up-held the said settlement, dated 11th November, 1974. The workman was dismissed from service on 9th December, 1975. Although the award was given on 8th September, 1976, but the dispute had been settled on 11th November, 1974. Reference No. 25 of 1975 related to Bonus for the year, 1973-74 and the dearness allowance. The settlement settled both the disputes. Although the reference related to the dispute but those dispute stood already settled even prior to the date of reference and the learned Presiding Officer of the Tribunal upheld that settlement and gave his award in terms of the settlement.

Looking to the reference, it may be argued that the reference was pending but the industrial dispute involved in the reference were already settled prior to the date of reference. Hence although those were proceeding in respect of an industrial dispute which had already been settled prior to the date of reference. Although the reference was pending but the industrial dispute had already been settled.

The learned representative for the management has cited the following rulings.

- (1) 1971-Lab-IC-600. This ruling is not applicable to the facts of this case.
- (2) IFJ-1975-Vol. 47-page 43. This ruling is also not very much applicable to the facts of this case.

3. IFJ-Vol-23-1962-63 page 541. This ruling holds that the proceedings pendency whereof is alleged to be a bar against the employers Act and conduct, must be a valid proceedings. The mere factual pendency of any proceedings would not attract the application of section 33. The proceedings in that case were held invalid by the High Court on the ground that there was not a valid reference under the Act. This ruling in letter is not applicable on all fours but the ratio of this ruling helps the management because when the dispute had already been settled much prior to the date of reference, the proceedings may not be said to be valid proceeding.

4. 1960-LLJ-II-page 91. This ruling is not applicable to the present facts.

5. 1962-II-LLJ page-527. This ruling holds that it should be established that the proceedings in respect of industrial dispute were pending when the employees were dismissed. This ruling holds that the Tribunal had to record a positive finding that there was a proceeding pending before it in respect of an industrial dispute. In that case it was in controversy whether the dispute was an industrial dispute and the Hon'ble the High Court held that the Tribunal first must decide that the dispute was an industrial dispute. The "letters" of this ruling does not apply to the facts of the instant case but its ratio applies and helps the management.

The learned representative for the management argued that when the Industrial dispute had been settled prior to the date of reference, there was no industrial dispute pending and the proceedings relating to that industrial dispute were not valid proceedings. I agree with the learned representative for the management. It stands to reason that when the dispute had been settled much prior to the date of reference, the proceedings were not proceedings in respect of an industrial dispute, as there was no industrial dispute at all at the time of reference. I have also to refer the award of my learned predecessor in reference No. 25 of 1975. My learned predecessor in that case had framed a preliminary issue as follows :—

"Whether the reference in respect of the dispute as referred to this Tribunal is not barred under settlement admitted to have executed by the signatories thereof."

The onus of this ruling was on the workman and my learned predecessor decided this issue against the workman. It means that my learned predecessor held that the reference was barred under the settlement and this is that settlement that had settled the industrial dispute under that reference much prior to the date of reference and hence the dispute was held as barred under the settlement. Although my learned predecessor gave his award

in terms of the settlement, up-holding that settlement. I think when the industrial dispute had been settled much prior to the date of reference, the reference was invalid as there was no industrial dispute standing between the parties, which had already been settled. This complaint is under section 33-A of the Industrial Disputes Act alleging contravention of section 33 of the Industrial Disputes Act. When valid proceedings were not pending in respect of industrial dispute and at the date of reference there was no industrial dispute, as having been already previously settled. I think there is no contravention of section 33 and hence this complaint under-section 33-A fails. I, therefore, dismiss this complaint, holding that there was no contravention of section 33 of the Industrial Disputes Act by the management. The parties bear their own costs.

Dated 15th March, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 245, dated 17th March, 1978.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 17th March, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 3695-3Lab-78/1760.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Haryana Oil Company, Palwal:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL  
TRIBUNAL, HARYANA FARIDABAD

Reference No. 109 of 1977

*between*

SHRI NABHA RAM WORKMAN AND THE MANAGEMENT OF M/S HARYANA OIL  
COMPANY, PALWAL,

*Present: —*

Nemo for the workman.

Shri Rajinder Parshad for the management.

#### AWARD

By order No. ID/FD/2085-A-77/27681, dated 26th July, 1977, the Governor of Haryana referred the following dispute between the management of M/s Haryana Oil Company, Palwal and its workman Shri Nabha Ram, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Nabha Ram was justified and in order?  
If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties filed their pleadings but thereafter neither party appeared on 20th December, 1977. Fresh notices were issued to the parties to appear on 25th January, 1978. On 25th January, 1978 the management appeared but none appeared for the workman and the workman was proceeded against *ex parte*, although the case was called for three times that day and final order was passed at 2.15 P. M. The case was then fixed for *ex parte* evidence of the management. The management examined Shri Rajinder Parshad as their witness who stated that the workman concerned abandoned his job of his own and went away from the factory and the workman concerned had received all his dues in full and final settlement and gave a receipt. The receipt read that the workman has received Rs. 80 only in the Labour Office and that he had no dispute

with the management. The management closed their evidence. I, therefore, give my award that the workman concerned abandoned his job of his own and the management did not terminate his services. The workman concerned is not entitled to any relief.

Dated the 17th March, 1978.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 248, dated 17th March, 1978

Forwarded (four copies), to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 17th March, 1978

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 21st March, 1978

No. 2608-3Lab-78/1719.—In pursuance of the provision of section 17 the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Electronics Ltd., 26, New Industrial Town, Faridabad:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Complaint No. 17 of 1977 under section 33-A of the Industrial Disputes Act, 1947.

between

SHRI RAM CHAND WORKMAN AND THE MANAGEMENT OF M/S. ELECTRONICS  
LTD., 26, NEW INDUSTRIAL TOWN, FARIDABAD

Present: .

Shri Ram Chand concerned workman, with Shri H. R. Dua his authorised representative.  
Shri Jaswant Singh, for the management.

#### AWARD

The complainant made this application under section 33-A of the Industrial Disputes Act, alleging contravention of section 33 of the Industrial Disputes Act, on the part of the management. Notices were sent to the respondent who filed their reply and the complainant filed rejoinder. On the pleadings of the parties, the following issues were framed on 7th October, 1977:—

- (1) Whether the application under section 33 (2) (b) has been made simultaneously to the act of the management of dismissing the respondent?
- (2) Whether the respondent is a protected workman?
- (3) Whether the domestic enquiry is legal, proper and in accordance with the principles of natural justice?
- (4) Whether the management has complied with all the requirements of law necessary for seeking approval?
- (5) Relief?

The case was fixed for the evidence of the complainant. It was at this stage that a settlement was arrived at between the parties. As per the settlement the complainant received a sum of Rs. 10,500,—vide two cheques from the management. The management treated dismissal the complainant as his resignation. The management accepted the resignation and communicated their acceptance to the complainant. The complainant being satisfied agreed that his complaint be dismissed and the parties be left to bear their own cost. The complainant stated that all his claims have been fully satisfied and he had received a

good consideration for his resignation. Both the parties admitted the execution of the settlement of their free will. Both the parties prayed that award be given in terms of the settlement, I, therefore, give my award in terms of the settlement and dismiss the complaint of the complainant. The parties shall bear their own costs. The settlement shall from the award.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal Haryana,  
Faridabad.

Dated 17th February, 1978.

No. 158, dated 28th February, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Dated 28th February, 1978.

BEFORE SHRI N. R. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA AT FARIDABAD

. Application No. 17 of 1977.

Shri Ram Chand

.. Petitioner.

*versus*

Messrs. Electronics Limited .. Opposite Party.

Next date : 23rd February, 1978.

COMPLAINT UNDER SECTION 33-A OF THE INDUSTRIAL DISPUTES ACT, 1977.

### SETTLEMENT

The petitioner and the opposite party have mutually settled their dispute on the following terms and conditions :—

1. That the petitioner does not challenge his dismissal by the opposite party,—*vide* the latter's dismissal order, dated 25th July, 1977. However, the petitioner has tendered to the opposite party his resignation, dated 10th February, 1978, in pursuance whereof he has resigned with effect from 25th July, 1977. The opposite party has accepted the resignation. The petitioner, therefore, does not wish to press the above complaint. A copy of this resignation letter and its acceptance in Annexure I hereto.

2. That the petitioner has renounced all his claims, past, present and future, of whatsoever a nature including those of reinstatement, re-employment and the like, except those which are expressly allowed to him in terms of this settlement.

3. That the opposite party has agreed to pay to the petitioner the following amounts :—

(a) Rs. 6,913.50 P. in lieu of all the claims of the petitioner in respect of earned wages, bonus, wages in lieu of unavailed leave etc. *plus ex gratia*.

(b) Rs. 3,586. 50 P. as gratuity payable to him, as per his letter of request, by the Trustees Electronics Ltd. Gratuity Fund.

4. That the petitioner has agreed not to oppose the opposite party's application No. 13 of 1977 for approval of his dismissal pending before the Hon'ble Tribunal for disposal.

5. That the above moneys will be paid to the petitioner by cheques, against separate receipts, at the time of the attestation of this settlement before the Hon'ble Tribunal.

6. That the parties shall bear their own costs of the two applications, i.e. No. 13 of 1977 and No. 17 of 1977.

7. That upon the attestation of this settlement and the payments made as indicated in paras 3 and 5 above, all the disputes and/or contention, claims and/or counter-claims between the parties hereto of whatsoever a nature, past, present and future, shall stand fully and finally settled.

It is, therefore, respectfully prayed that the Hon'ble Tribunal may be pleased to—

(a) call for the record;

(b) attest the above settlement;

(c) record payments made by the opposite party to the petitioner;

(d) dismiss the complaint; and

(e) pass its award accordingly leaving the parties to bear their own costs.

RAM CHAND,

Petitioner,

For Electronics Limited.

K. KEMPALINGAIAH

Works Manager &  
Factory Manager.  
Opposite Party.

Faridabad  
14/15th February, 1978.

M/s Electronics Limited  
26, N. I. T.,  
FARIDABAD

10th February, 1978.

Dear Sir,

You had passed a dismissal order against me effective from 25th of July, 1977. This dismissal order I have been contesting in the Honourable Industrial Tribunal. You had also made an application for the approval of the dismissal, pursuant to the Industrial Disputes Act. I now approach you with a request that my accounts may kindly be settled in full and final and I may be allowed some additional benefits in the form of *ex-gratia*.

I agree and undertake to withdraw the petition before the Industrial Tribunal as also I agree not to contest the approval sought by the Management.

In view of my reconciliation with you, I would request that I will be paid the following :—

(a) Rs. 16,913.50

.. for all my claims and dues against the Company.

(b) Rs. 3,586.50

.. as Gratuity for which I am enclosing a letter of request to the Trustee Electronics Ltd. Gratuity Fund for payment.

Subject to above, I hereby tender my resignation with effect from the 25th July, of 1977 and I hereby renounce in consideration of the above all my claims, past, present and future of whatsoever a nature, except to the extent set forth hereinabove.

Thanking you.

Yours faithfully,

(Sd.) RAM CHAND

10-2-78

Accepted as above.

for Electronics Limited.

Sd/- K. KEMPALINGAIAH

Works Manager and Factory  
Manager.

Address :

Ram Chand,

S/o Shri Kishori Ram

Village Gochi, Tehsil Ballabgarh,

Distt. Gurgaon

Witness :

(Sd) OM PARKASH

10-2-78

(Sd) AMAR NATH

10-2-78

G. V. GUPTA, Secy